

**REMARKS**

In the Final Office Action dated July 31, 2007, claims 1-8 and 20-23 stand rejected under 35 USC 103(a) as being unpatentable over Densert et al (US 6,159,171) (Densert) in view of Galiana et al. (US 5,942,954) (Galiana) and in further view of Gallery (US 5,900,849) (Gallery). Any reference to the 'Office Action' or 'Non-Final Office Action' herein means the July 17, 2008 Non-Final Office Action, unless otherwise indicated.

***Rejections under 35 U.S.C. § 103(a)*****As to Claims 1, 7, and 20-23, The References Fail to Disclose the Limitations Attributed to Them in the Office Action*****With Regard To Densert***

The Office Action states that Densert discloses "plural different vestibular-parameter measuring/modifying vestibular parameter data delivering and data receiving devices (elements 19, 20, 28 and 30 of Densert FIGS. 1-2) [are] anchored to said frame". However, the Office Action does not identify what structure in Densert constitutes the asserted 'frame'. The Office previously took the position that 'housing 2' of FIG. 1 is the asserted frame structure (April 11, 2007 Non-Final Office Action, page 2), and has not since indicated otherwise.

Applicant respectfully submits that Densert fails to disclose, either explicitly, implicitly, or inherently, that the cited elements are or can be anchorable to a "head-wearable frame structure" separately from the housing 2, whether in conditions thereof of relative positional stability both with respect to the frame structure and with respect to one another" or not, and the Non-Final Office Action does not so indicate.

Rather, the cited elements are an integral and inseparable part of Densert's overall device 1, performing functions specific to and reliant upon the overall structure depicted and described in Densert. Thus, in order for the elements to be combined "with no change in their respective functions" as asserted, the entire device 1 in Densert must be anchored/anchorable to a head-wearable frame structure. Densert provides no support for this assertion, either expressly, impliedly, nor inherently.

The Examiner stated during the 16 December 2008 Examiner Interview that the assertions in the Non-Final Office Action are directed toward anchoring the entire housing/'frame' of Densert, as well as the cited elements integral therewith, to the head-worn structure of Galiana.

Applicant does not concede that the asserted combination, of the entire device of Densert with the head-worn structure of Galiana, is proper, or that it satisfies the requirements for establishing a *prima facie* case of obviousness. Rather, applicant respectfully submits that Densert fails to disclose, either expressly, impliedly, or inherently, that the device described therein can be affixed to a head-worn structure, nor would it be viewed as such by one having skill in the art. Further, there is no evidence in the record describing or depicting how such attachment would be achieved.

Inasmuch as Densert fails to disclose such anchoring or use, applicant assumes the Office takes either Official Notice of such facts, and/or considers the Densert device to be inherently anchorable to a head-worn structure. However, the requirements for establishing inherency are not met in the Office Action.

In relying upon the theory of inherency, the Examiner *must provide a basis in fact and/or technical reasoning* to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. MPEP 2112(IV), citing *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)(emphasis provided and original).

The fact that a certain result or characteristic may occur or be present in the prior art *is not sufficient* to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, *may not be established* by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances *is not sufficient*'. *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999)(emphasis provided).

There is no evidence in the record or the references that the device of Densert is necessarily anchorable to a head-worn structure, particularly without affecting the satisfactory functioning thereof.

Likewise, the Office Action lacks the required disclosure of concrete evidence in the record, and specific factual findings predicated on sound technical and scientific reasoning, to support a taking of Official Notice.

The Board cannot simply reach conclusions based on its own understanding or experience-or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings. (MPEP 2144.03, citing *Zurko*, 258 F.3d at 1385, 59 USPQ2d at 1697.)

It is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon

which a rejection was based. (MPEP 2144.03, citing *Zurko*, 258 F.3d at 1385, 59 USPQ2d at 1697) As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to *defy dispute*". (MPEP 2144.03)(Emphasis provided)

In certain older cases, official notice has been taken of a fact that is asserted to be "common knowledge" without specific reliance on documentary evidence where the fact noticed was readily verifiable, such as when other references of record supported the noticed fact, or where there was *nothing of record to contradict it*. If such notice is taken . . . [t]he examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. See *Soli*, 317 F.2d at 946, 37 USPQ at 801; *Chevenard*, 139 F.2d at 713, 60 USPQ at 241. (MPEP 2144.03)(Emphasis provided)

For example, Densert fails to disclose any structures on or portions of the device described therein, that would be suitable for achieving or accommodating attachment with a head-worn structure, particularly that of Galiana. In fact, Densert provides no information whatsoever regarding the size of device 1, or its placement relative to a human subject. Only the nozzle 25 at the termination of the flexible hose 24, is described as engaging any part of a human subject (e.g., it is placeable in a subject's auditory canal). Nor are any surfaces or structures of the Densert device depicted or described as being configured/contoured for stable and secure retention relative to a user's head. Nor would one having ordinary skill in the art recognize such at the time of applicant's filing date.

Nor does Galiana disclose any attachment locations or structures for additional devices on its described and/or depicted head-worn structures. Instead, Galiana describes and depicts a head-worn structure intended and designed to oscillate and impart torque to a user's head. Anchoring the entire device of Densert to the head-worn structure of Galiana, as is asserted by the Office, would likely alter the overall weight, balance, oscillatory performance, and/or torque generation properties thereof, likewise affecting the subject's response thereto. Further, at least in the case of FIG. 3, it is entirely likely that the anchoring of the Densert device would interfere with the movement of the servomotor-oscillating ring arrangement.

Applicant respectfully submits the proposed combination would likely render one or both of Densert and Galiana unsatisfactory for their intended purposes. "If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification", (MPEP 2143.01(V), citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

Additionally, as the Office recognizes, Densert entirely fails to disclose an image capture device, and therefore also does not disclose one integrated with the head-worn frame.

For at least these reasons, applicant respectfully submits that Densert fails to disclose “at least a pair of vestibular-parameter...devices anchored/anchorable to said [head-wearable] frame structure in conditions thereon of relative positional stability both with respect to the frame structure and with respect to one another” as asserted by the Office Action. Applicant further submits the asserted combination is improper, and fails to provide a *prima facie* basis for the asserted rejections. Substantial evidence on the record, as would be understood by one having skill in the art, supports applicant’s position in this regard.

***With Regard To Galiana***

Galiana also fails to disclose a head-worn frame that includes “an image capture device” and “at least a pair of vestibular-parameter...devices anchored...to said [head-wearable] frame structure in conditions thereon of relative positional stability both with respect to the frame structure and with respect to one another”, either alone or when combined with Densert.

With regard to an image capture device, the Office Action refers to an “integrated eye-movement monitoring means”, citing feature 14 in Galiana FIG. 1 and column 4, lines 53-60. However, none of these cited portions of Galiana describe, depict, or suggest that the “electro-oculographic (EOG) [electrodes] or non-contact video-based eye trackers” (col. 4, lines 58-59) are “anchored to said frame structure in conditions thereon of relative positional stability both with respect to the frame structure and with respect to one another”, according to applicant’s claims. Rather, substantial evidence in the record indicates that they are not so anchored.

One having ordinary skill in the art would recognize that EOG electrodes are affixed directly to the skin of the subject proximate to the eyes, as depicted in Galiana FIG 3. The placement of EOG electrodes on the skin of a subject is described in the art prior to applicant’s filing date (*Intraoperative Electrooculographic Monitoring of Oculomotor Nerve Function During Skull Base Surgery*, J. Neurosurg., Volume 91, p. 157 (July 1990), attached as Appendix A).

The authors report an extremely simple and far more reliable technique in which electrooculographic (EOG) monitoring is used...The polarity of the EOG responses recorded with surface electrodes *placed on the skin around the eyeball* yielded precise information concerning the location and function of the oculomotor and abducent nerves... The surface electrodes used here were not special in any way; ordinary electrodes can be used. (*Intraoperative Electrooculographic Monitoring of Oculomotor Nerve Function During Skull*

Base Surgery; Fukaya, et al; J Neurosurg 91:157-159 (1999))(emphasis provided)

Thus, one having skill in the art would recognize that Galiana's described and depicted EOG electrodes 14/48 are applied to the subject's skin directly, not anchored to any head-wearable frame. During the Examiner Interview, the Office recognized these facts, and does not assert that Galiana's described EOG discloses applicant's recited "image capture device" or the similarly recited limitations in claims 7 or 20.

Galiana also describes the video-based eye tracker as being 'non-contact' (col. 4, lines 58-59). During the Examiner Interview, the Examiner suggested that the phrase 'non-contact', appearing in the same sentence as the EOG, serves to distinguish the video-based eye tracker from the electrodes of the EOG eye tracker (which must be affixed in contact with the subject's skin), rather than distinguishing from the expressly described head-contacting head perturber. Thus, the Examiner stated, the Office takes the position that the eye tracker of Galiana could be anchored to the head-worn structure.

Applicant understands the Office's logic, but does not concede that such interpretation is supported by or consistent with the substantial evidence in the record generally, and the references in particular. Applicant respectfully submits that the Office's interpretation of 'non-contact' is not expressly, impliedly, or inherently supported by *substantial evidence* in the specification. "The standard of review applied to findings of fact is the "substantial evidence" standard under the Administrative Procedure Act (APA). See *In re Gartside*, 203 F.3d 1305, 1315, 53 USPQ2d 1769, 1775 (Fed. Cir. 2000). See also MPEP § 1216.01." Therefore, applicant respectfully submits that the office's interpretation constitutes either a taking of Official Notice, or an application of a Theory of Inherency.

In either case, the Non-Final Office Action does not provide the required concrete evidence of facts taken beyond the record that are demonstrable so as to defy dispute, or specific factual findings predicated on sound technical and scientific reasoning. Nor does the Office Action demonstrate that the video-based eye tracker is necessarily structurally integrated in a condition of positional stability with the head-worn structure of Galiana. For at least these reasons, neither a taking of Official Notice, or application of a Theory of Inherency, are properly presented in this case.

For example, Galiana's claim 16 recites, and column 7, lines 62-66 teach, that the entire head perturber 30 is *in contact with the head of the subject*. Thus, one having ordinary skill could just as reasonably conclude that Galiana intends that 'non-contact' video-based eye trackers are not mounted to the head-worn apparatus (and thus in contact with the subject's

head), but are separately placed where they are not on contact with the subject's head (e.g., non-contact).

Additionally, applicant submits there is substantial evidence that Galiana does not disclose, and is not intended to disclose, an image capturing device anchored to a head-wearable frame, particularly in a condition of stability relative thereto.

- 1) Galiana does not describe or depict any structural arrangement of a video-based eye tracker relative to a head-worn device, but rather provides only a schematic drawing (FIG. 1) depicting no structural arrangement, and a description of the video-based eye tracker as being 'non-contact' (col. 4, lines 58-59).
- 2) While Galiana does depict the EOG devices on a subject's skin (FIG. 3), Galiana does not depict any video-based or other eye trackers, particularly none anchored to the head-worn devices of either FIGS. 3-4.
- 3) While Galiana does describe both random targets projected onto a *distant screen* and displayed in a *visor/heads up display*, Galiana does not similarly describe or depict any embodiments of any head-worn video-based image capturing device.
- 4) While Galiana does depict the 'head position tracker' (features 16 and 46 in FIGS. 1 and 3, respectively) coupled with straps 34 of the head-worn structure 32, no 'eye tracker' is depicted or described anchored with any part of the head-wearable apparatus.

The contrast between what features Galiana does expressly depict and describe relative to other features thereof, and Galiana's complete lack of description regarding any video-based eye tracker being attached to a head-worn device, fails to provide substantial evidence supporting the assertions in the Office Action, and rather provides substantial evidence, at least by implication, favoring applicant's position.

In summary, Galiana fails to disclose applicant's recited structural limitation(s) of:

...head-wearable frame structure adapted for wearing on a subject's head in a condition of positional stability relative thereto, the frame structure including an integrated and likewise positionally stable eye-enclosing portion configured to control visual input by substantially obstructing the subject's normal visual range, the eye-enclosing portion including fixedly anchored thereto each of a likewise positionally stable image capture device positioned to capture an image of at least one of the subject's eyes",

as recited in amended claim 1, and recited similarly although not identically in amended claims 7 and 20.

Further, neither Densert nor Galiana, either alone or when combined, additionally disclose "*at least a pair of vestibular-parameter data-parameter sensor devices selectively*

anchored/anchorable to said frame structure” (claim 1), “*plural, different*, data-parameter devices, each selectively anchored/anchorable to said frame structure” (claim 7), and “plural vestibular-disorder-relevant information sensors and stimuli deliverers anchored with positional stability on said frame structure” (claim 20).

Therefore, in light of the remarks presented above regarding Densert, applicant respectfully submits that the asserted combination of Densert and Galiana likewise fails to disclose the limitations recited in applicant’s amended claims 1, 7, and 20.

***With Regard To Gallery***

Lastly, Gallery also fails to disclose the recited claim limitations indicated above, either alone or when combined with Densert and Galiana.

Gallery is not in any way directed toward vestibular treatment or diagnosis, nor does the Office Action so assert (as the Examiner acknowledged in the interview). Rather, Gallery is directed toward “graphical user interfaces for computer systems and...head mounted displays (HMDs) for use in virtual reality (VR) and related applications”, (col. 1, lines 5-8). As such, Gallery fails to disclose any “vestibular-parameter...devices selectively anchored/anchorable...to said frame structure”.

The camera in Gallery is expressly configured relative to the ‘support frame’ to capture images of the physical environment in front of the wearer, (e.g., Gallery’s camera is pointed away from the user’s eyes), not to capture images of the wearer’s eyes nor any other vestibular-relevant parameter. “[O]ne or more video cameras 62 are provided mounted on the HMD which supply video images of the user surroundings”, (col. 5, lines 12-14). Redirecting the camera toward the wearer’s eyes would render it unsuitable for its intended purpose in Gallery. Further, if positioned in front of and directed toward the user’s eyes, such cameras would be unable to capture an image of the user’s eyes, inasmuch as Gallery describes that “such [miniaturized cathode ray tube (CRT)] screens [placed in front of the user’s eyes] cannot be rendered transparent”, (col. 5, lines 11-12).

Thus, the camera in Gallery is not a ‘vestibular-parameter...device’, is not “positioned to capture an image of at least one of the subject’s eyes” as recited in amended claim 1, is not “configured [on the head-wearable frame structure] to capture an image of at least one of the subject’s eyes” as in amended claim 20, and could not reasonably be interpreted as a “subject-eye-movement monitoring camera” as recited in amended claim 7.

“If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious”, (MPEP 2143.01(VI)).

"The prior art can be modified or combined to reject claims as *prima facie* obvious as long as there is a reasonable expectation of success." *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). By implication, if there is no reasonable expectation of success, the prior art cannot be modified or combined as asserted, and/or fail to establish *prima facie* obviousness.

Therefore, applicant respectfully submits the Office Action fails to establish a *prima facie* basis for the asserted rejection, and requests withdrawal of the rejections, as improper on at least this basis, from claims 1, 7, 20, as well as from claims 21-23 which depend from and include the distinct limitations of claim 20.

**Each of Rejected Claims 2 -6, 8, and 21-23 are Distinct as Depending from a Patentably Distinct Independent Claim**

Claims 2-6, 8, and 21-23 depend from claims 1, 7, and 20, respectively. As specified in 37 C.F.R. § 1.75(c), "Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim." Therefore, the proper examination of a dependent claim necessarily entails a full consideration of the limitations of the claim from which the claim being examined depends.

Applicant respectfully submits that each of claims 2-6, 8, and 21-23 include at least the patentably distinct limitations (as presented above) of amended claims 1, 7, and 20, respectively, and are therefore also patentably distinct for the same reasons as are claims 1, 7, and 20. For at least this reason, applicant request withdrawal of the rejections from claims 2-6, 8, and 21-23.

**As to claim 6, Densert Additionally Fails to Disclose Fluid-flow Structure...Having an End Configured to Pierce the Subject's Tympanic Membrane**

The Office Action asserts that the "tapered insertion bulb or nozzle (25)" is "capable of piercing the tympanic membrane". While applicant recognizes that "[t]he express, implicit, and inherent disclosures of a prior art reference may be relied upon in the rejection of claims under 35 U.S.C. 102 or 103", (MPEP 2112), Densert does not expressly or impliedly describe that the nozzle 25 is so configured or used.

Furthermore, "[t]he fact that a certain result or characteristic may occur or be present in the prior art is *not sufficient* to establish the inherency of that result or characteristic", (*In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981)(emphasis provided)).

Rather, Densert differentiates the nozzle 25 from a separate air passage through the tympanic membrane. "The nozzle piece 25 is inserted into the auditory tube of the ear 32. In



turn, the auditory tube is connected to the middle ear, e.g. *via a tube* in the tympanic membrane”, (col. 5, lines 19-20)(emphasis provided). Densert does not depict any structures on nozzle 25 configured to pierce the tympanic membrane, nor does Densert describe using the nozzle to pierce the tympanic membrane.

For at least this reason, applicant respectfully submits that the Office Action fails to establish a *prima facie* basis for the asserted 35 U.S.C. § 103(a) rejections thereof, and requests withdrawal of the rejection from claim 6.

Additionally, the Office Action asserts that “Densert discloses...digitally manipulated maneuverable enlargement region (17 and 18) connected to said body at a proximal location of the inserted end”. However, Densert does not describe either explicitly or implicitly that the ‘electromagnetic units’ 17 and 18 (FIG. 1, col. 3, lines 23-24) are used for ‘digital manipulation’ consistently with applicant’s specification.

It appears to applicant that the Office broadly interprets ‘digitally manipulated’ to include manipulation with *digital data*, according to the description of a feedback control in Densert.

The data derived from the sending of the voltage across the electromagnets 19, 20 and possibly also from the sensing of the positions of the pistons 15, 16 may be used for feed back control. (Col. 4, lines 44-47)

The pressure pulses are registered by the pressure sensing means 28, and the control unit 29 is arranged to regulate the effects of the electromagnet 20 on the piston 16 to ensure that the generated pressure pulses coincide with the desired pressure pulses as far as possible. (Col. 4, line 65 – col. 5, line 3)

However, this interpretation is inconsistent with applicant’s specification, as it would be understood by one having skill in the art. Instead, applicant describes:

Suitably provided on body 36a, at a location which is somewhat distant from the trocar equipped end of the device, is an enlargement which provides what is referred to herein as a manipulation bead 36c that permits digital manipulation conveniently of this device during insertion, and during stabilization while readying and applying fixation molding material. (¶ [0091])

Manipulation of the device during insertion into the ear and sealing in place, as is illustrated in FIG. 10, is accommodated by digital manipulation utilizing bead 36c while the hand is stabilized against the head. (¶ [0092])

One having skill in the art would understand that applicant describes ‘digital manipulation’ in the sense that the enlargement/bead is provide to enable manipulation with the operator’s digits (i.e., fingers). Manipulation of the device during insertion and application of the fixation molding material is not in any way described or intended to

involve manipulation with digital data, and such interpretation yields an absurd and inconsistent result.

Applicant acknowledges that the Office may give the claims their broadest reasonable interpretation (MPEP 2111). However, the scope of such interpretation is expressly limited by the Court of Appeals for the Federal Circuit (CAFC) *en banc* decision in *Phillips v. AWH Corp.*. “The scope of the claimed invention *must* be clearly determined by giving the claims the “broadest reasonable interpretation *consistent with the specification.*” (MPEP 2141(II)(A), citing *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316, 75 USPQ2d 1321, 1329 (Fed. Cir. 2005))(emphasis provided).

In *Phillips v. AWH Corp.*, the court prohibited the Office from interpreting a claim limitation in a manner that is inconsistent with applicant’s specification. “Our cases recognize that the specification may reveal a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess. In such cases, *the inventor’s lexicography governs.*” This rule is echoed throughout CAFC precedent, as described in *Phillips*.

“The claims are directed to the invention that is described in the specification; they do not have meaning removed from the context from which they arose.” (*Phillips* at 1316, citing *Network, LLC v. Centraal Corp.*, 242 F.3d 1347, 1352 (Fed.Cir.2001)).

A fundamental rule of claim construction is that *terms in a patent document are construed with the meaning with which they are presented in the patent document.* Thus claims must be construed so as to be consistent with the specification, of which they are a part.” (*Phillips* at 1316, citing *Merck & Co. v. Teva Pharms. USA, Inc.*, 347 F.3d 1367, 1371 (Fed.Cir.2003))(emphasis provided).

And definitively, the *en banc* CAFC in *Phillips* stated;

Ultimately, the interpretation to be given a term can *only be determined and confirmed with a full understanding of what the inventors actually invented and intended to envelop with the claim.* The construction that stays true to the claim language and most naturally aligns with the patent’s description of the invention will be, in the end, the correct construction. (*Phillips* at 1316, citing *Renishaw PLC v. Marposs Societa’ per Azioni*, 158 F.3d 1243, 1250 (Fed.Cir.1998))(emphasis provided).

While applicant further acknowledges that limitations may not be imported from the specification into the claims unnecessarily, applicant respectfully submits that no such importation is necessary here. Rather, the limitation(s) “digital manipulation” is/are already expressly recited in claim 6. The Office need only accord the proper interpretation to the limitation(s). As discussed, a proper interpretation must be consistent with applicant’s

specification, which describes what applicant invented and intends to encompass by the recited claim language.

Indeed, the rules of the PTO *require* that application claims must "conform to the invention *as set forth in the remainder of the specification* and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that *the meaning of the terms in the claims may be ascertainable by reference to the description*. (MPEP 2111, 37 CFR 1.75(d)(1)).

Thus, any interpretation of "digital manipulation" must be consistent with applicant's described and intended manual manipulation of the "maneuvering-assist enlargement joined to said [fluid-flow] body", as described in at least paragraphs [0091]-[0092] above, and as recited in claim 6.

Nor are the applicants required to *expressly* define each claim term in the specification.

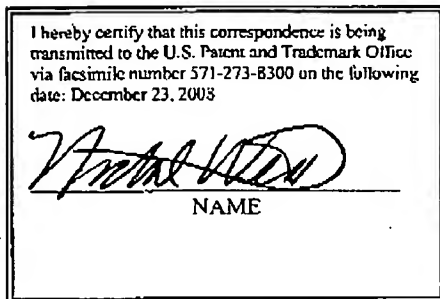
[R]equiring that any definition of claim language in the specification be express, is inconsistent with our rulings that the specification is 'the single best guide to the meaning of a disputed term,' and that the specification 'acts as a dictionary when it expressly defines terms used in the claims *or when it defines terms by implication*.' *Phillips* at 1321, citing *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed.Cir.1996); *Irdeto Access, Inc. v. Echostar Satellite Corp.*, 383 F.3d 1295, 1300 (Fed.Cir.2004)(emphasis provided).

For at least this reason, applicant respectfully submits that the Office Action fails to establish a *prima facie* basis for the asserted 35 U.S.C. § 103(a) rejections thereof, and requests withdrawal of the rejection from claim 6.

For at least the reasons presented above, applicant respectfully submits that the 35 U.S.C. § 103(a) rejections of amended claims 1, 7, and 20, as well as claims 2-6, 8, and 21-23, which depend from and include the limitations of claims 1, 7, and 20, respectively, are traversed herein, and respectfully requests withdrawal of the rejections.

**CONCLUSION**

Accordingly, applicant respectfully submits that the amendments to the claims more clearly and patentably distinguish the invention, and therefore requests reconsideration and allowance of the claims without undue delay. The Examiner is encouraged to telephone the undersigned at (503) 226-8468 if it appears that an interview would be helpful in advancing the case.



Respectfully submitted,

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